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IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

CRM-M-46336-2025 (O&M)

Amritpal Singh @ Kaka

....Petitioner

versus

State of Punjab

.... Respondent

CRM-M-69831-2025

Mangal Jit Singh @ Manga

....Petitioner

versus

State of Punjab

....Respondent

Date of decision: 17.02.2026

CORAM : HON'BLE MR. JUSTICE RAJESH BHARDWAJ

Present :- Ms. Rinky Gupta, Legal Aid Counsel (in CRM-M-46336-2025)
Mr. Anmol Jindal, Legal Aid Counsel (in CRM-M-69831-2025)
for the petitioner(s).

Mr. Hemant Aggarwal, DAG, Punjab.

RAJESH BHARDWAJ, J. (Oral)

CRM-33128-2025 in CRM-M-46336-2025

Application is allowed as prayed for.

Main cases

1. By way of this common order, this Court intend to dispose of abovesaid two petitions as they have arisen out of the same FIR.
2. Petitioners have approached this Court by way of filing the present petitions praying for grant of regular bail to them in case FIR No.0018 dated 21.01.2025, under Sections 22-61-85 of the NDPS Act, 1985, registered at Police Station City South, District Moga, Punjab.
3. Succinctly, facts of the case are that the police party while on patrolling on 21.01.2025, when reached near Kachha Ghal Kalan road,



they saw two boys coming on foot. On seeking the police, they threw a packet in the bushes and tried to escape. On suspicion, both were apprehended. On asking, they disclosed their names as Amritpal Singh @ Kaka (petitioner in CRM-M-46336-2025) and Mangaljeet Singh @ Manga (petitioner in CRM-M-69831-2025). They were suspected to be carrying some contraband. Thus, the search was conducted and from the packets thrown by them in the bushes, 190 tablets Marka Etizolam were recovered. They failed to produce any license regarding the possession of the same. Thus, the FIR was registered and both were arrested on the spot. The investigation commenced. On completion of the investigation, challan was presented and charges were framed. Petitioners approached the Court of learned Judge, Special Court, Moga, praying for grant of regular bail. However, after hearing counsel for the parties, learned Judge, Special Court, Moga declined the same vide orders dated 05.04.2025. Hence, petitioners have approached this Court again by way of filing the present petitions.

4. It has been submitted by learned counsel for the petitioners that the petitioners have been falsely and frivolously implicated in the present cases. It has further been submitted that the alleged recovery is effected from the public place however, no independent witness has been joined. She has further submitted that the conscious possession itself is not proved as the alleged recovery is from the packet lying in the bushes. It is submitted that there is a blatant violation of provisions of Section 50 of the NDPS Act. It is submitted that though the petitioners are involved in one more case however, they are on bail in those cases. It is submitted that in the facts and circumstances of the cases, the petitioners deserve to be



granted regular bail.

5. Learned State counsel has however, opposed the submissions made by learned counsel for the petitioners. He has submitted that the recovery was effected from the petitioners on the spot. He submits that the contraband recovered from the petitioners weighs 143 grams of Etizolam which falls under the category of commercial quantity hence, provisions of Section 37 of the NDPS Act are attracted. He, on instructions, submits that investigation is complete, challan has been presented however, the charges are yet to be framed. He has placed on record the custody certificates of the petitioners.

6. After hearing counsel for the parties and perusing the record, it is deciphered that the alleged recovery in the present case is from the bushes and not from the personal search of the petitioners. The recovery has been effected in the public place which falls under the commercial quantity. As submitted before this Court, challan already stands filed. Custody certificates filed by the State show that the petitioners have undergone incarceration of 01 year and 23 days as on 15.02.2026. It further reflect that both the petitioners are involved in one more case.

7. As held by the Hon'ble Supreme Court in **Mohd Muslim @ Hussain Vs. State (NCT of Delhi), 2023 LiveLaw(SC)260**, this Court is of the opinion that the case of the petitioner is covered by the ratio laid down by the Hon'ble Supreme Court. In the abovesaid case Hon'ble Supreme Court expressed its views as under:-

19. A plain and literal interpretation of the conditions under Section 37 (i.e., that Court should be satisfied that the accused is not guilty and would not commit any offence) would effectively exclude grant of bail altogether, resulting in



punitive detention and unsanctioned preventive detention as well. Therefore, the only manner in which such special conditions as enacted under Section 37 can be considered within constitutional parameters is where the court is reasonably satisfied on a prima facie look at the material on record (whenever the bail application is made) that the accused is not guilty. Any other interpretation, would result in complete denial of the bail to a person accused of offences such as those enacted under Section 37 of the NDPS Act.

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21 *.....it would be important to reflect that laws which impose stringent conditions for grant of bail, may be necessary in public interest; yet, if trials are not concluded in time, the injustice wrecked on the individual is immeasurable.*

22 xxxxx

23. *There is a further danger of the prisoner turning to crime, “as crime not only turns admirable, but the more professional the crime, more honour is paid to the criminal”²² (also see Donald Clemmer’s ‘The Prison Community’ published in 1940²³). Incarceration has further deleterious effects - where the accused belongs to the weakest economic strata: immediate loss of livelihood, and in several cases, scattering of families as well as loss of family bonds and alienation from society. The courts therefore, have to be sensitive to these aspects (because in the event of an acquittal, the loss to the accused is irreparable), and ensure that trials – especially in cases, where special laws enact stringent provisions, are taken up and concluded speedily.'*

8. The veracity of the allegations would be assessed only after conclusion of the trial and on the appreciation of evidence to be led by both the parties before the trial Court. The trial of the cases will take sufficiently long time. However, keeping in view the overall facts and circumstances of the present cases, this Court is of the opinion that

learned counsel for the petitioners succeed in making out a case for grant of regular bail. Accordingly, the present petitions are allowed and the petitioners are ordered to be released on bail on their furnishing bail/surety bonds to the satisfaction of the concerned trial Court/Duty Magistrate. Nothing said herein shall be treated as an expression of opinion on the merits of the case.

9. If the petitioners do not furnish the bail bonds within seven days from today, then their further custody period after one week will not be counted in the present case.

17.02.2026
m.sharma

(**RAJESH BHARDWAJ**)
JUDGE

Whether speaking/reasoned	:	Yes/No
Whether reportable	:	Yes/No